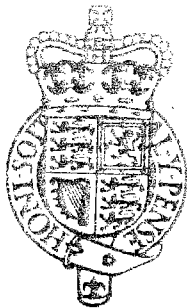


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Appeal Decision

Hearing held on 01 June 2006

Site visit made on 01 June 2006

by **Jean Russell MA MRTPI**

an Inspector appointed by the Secretary of State for
Communities and Local Government

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Date **27 JUN 2006**

Appeal Ref: APP/H1033/A/05/1176358

Land adjacent to "Dale View", Sterndale Moor, Buxton, Derbyshire SK17 9QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Paul Vaines against the decision of High Peak Borough Council.
- The application (ref: HPK/2004/1013), dated 29 October 2004, was refused by notice dated 16 December 2004.
- The development proposed is construction of one detached dwelling.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The application was made in outline with all matters reserved. However, the application statement indicates that the proposal is for an earth dwelling and this was confirmed at the Hearing, where plans from a previous application were submitted for illustrative purposes.

Main Issues

2. I consider there to be three main issues in this case. The first is the effect of the proposed development on the character and appearance of the countryside, and the second is its effect on highway safety. The third main issue is, in the event of any harm arising from the above issues, whether the appellant's personal circumstances would outweigh that harm and be sufficient to justify the proposed development.

Planning Policy

3. The development plan includes the *High Peak Local Plan* (LP, adopted 2005). It supersedes the 1998 LP in force when the application was determined. I consider the following LP policies relevant to the appeal. Policy OC1 defines the countryside as covering land beyond built-up area boundaries. Within the countryside, it permits development which is an integral part of the rural economy, can only be carried out in the countryside, and would not have a significant adverse impact on the character and distinctiveness of the countryside.
4. Paragraph 7.64 (Policy H5 in the 1998 LP) permits residential development in the countryside provided it is essential to the operation of a rural-based activity or required to meet a local need for affordable housing. Policy H7 sets out criteria for residential development connected to rural-based activities; these include that full-time on-site management is required for the enterprise and there is no available conveniently located existing dwelling. Policy TR5 requires safe and appropriate provision for access and egress.

Reasons

Character & Appearance

5. The appeal site comprises part of a field, which itself forms part of an agricultural holding. I understand that the farmland is mainly used for hay making and owned by the appellant's mother. Two workshops lie on the field immediately behind the site; these were built to house animals and later used for agricultural engineering. They are now used by the appellant in his electromechanical equipment design business. The access to the workshops is shared with that to a residential property, Hillcrest, also owned by the appellant's mother.
6. The site faces the A515 and adjoins a dwelling to its south, Dale View. Dale View in turn adjoins Hillcrest and these houses lie within the village of Sterndale Moor. The boundary between Dale View and the site, however, marks the LP built-up area boundary. In the surrounding area, quarrying is a major land use that has made a considerable impact on the landscape. Nevertheless, I saw that the site provides views of unblemished pasture which contributes to a wide if not scenic area of open countryside to the north of Sterndale Moor.
7. *Planning Policy Statement 7: Sustainable Development in Rural Areas* (PPS7) sets out the Government's objectives for rural areas, which include protecting the open countryside and discouraging 'greenfield' land development. It states that new house building in the open countryside, outside of areas allocated in development plans, should be strictly controlled. The appeal site lies within the open countryside according to the LP and it also comprises greenfield land because it is agricultural use. In my view, allowing a new dwelling here would clearly conflict with key aims of PPS7.
8. PPS7 allows for new housing next to established villages but not on unallocated greenfield sites. Otherwise, in my view, rural settlements could continually expand into and erode the open countryside. I saw that Sterndale Moor is contained in form; the site does not appear part of the village, but contributes to its rural setting. I heard objections that the settlement boundary excludes the appellant's workshops, but in my view those structures can be disassociated from the village, since they lie on farmland and still resemble agricultural buildings. In my opinion, the proposed development would extend the built-up area and encroach upon the countryside, causing unacceptable harm to the undeveloped character of the rural area.
9. PPS7 also states that accessibility should be a key consideration in decisions. Given the proximity of the workshops (and quarries) to the site, occupiers of the proposed dwelling might not rely on a car to get to work. However, although there is a club in Sterndale Moor, there are no shops, schools, doctors or other community facilities in the area. I understand that the bus services which connect Sterndale Moor to nearby towns operate on up to an hourly basis. Nevertheless, I consider that the site is sufficiently remote from day-to-day amenities that occupiers of the proposed dwelling would be liable to own and use a car.
10. In this situation, and despite investment in the village, I consider that the appeal site would not be a sustainable location for new housing. The proposed dwelling would assist in creating unsustainable patterns of development and this adds weight to my view that it would harm the character of the countryside. I heard that permission has been granted to build four houses in Sterndale Moor, which would be as far from shops and services as the proposed dwelling. I am not aware of the details of that decision, except that it concerns brownfield land in the built up area. It does not set a precedent for the scheme before me.

11. It was said at the Hearing that there are aspects to sustainable development other than location. A condition could be imposed on any permission granted to ensure the proposed development would be an earth dwelling, an eco-friendly and inconspicuous structure. I saw that the site is screened from the north by hedgerow, but visible along on its frontage. It can also be seen from a footpath to the east of the field, although saplings besides that trail may grow and limit views in time. Overall, I consider that any development of this site could be visible to the public, but an earth dwelling would be relatively unobtrusive, particularly if the increase in land level was simply to that of the A515.
12. Nevertheless, it is my opinion that any new dwelling, on the blank slate of a greenfield site, could have a design that is environmentally sustainable and/or sensitive to the landscape. There are few earth dwellings in England, but in my experience similar benefits of development are regularly cited in order to circumvent countryside policies. I heard that the proposed dwelling might screen the workshops from the A515, but I have found that these appear akin to agricultural buildings, normal features of a rural scene. I see no advantage to their being concealed, which in any event could be achieved with planting.
13. I also agree with the Council that allowing the proposed dwelling, even if permitted development rights were withdrawn, would lead to the creation of a residential curtilage. Landscaping is a reserved matter, but in my view the domestication of the appeal site would be liable to detract from the appearance of this rural area.
14. LP Policy OC1 and Paragraph 7.64 permit development that supports the rural economy. Policy H7 and PPS7 also indicate that new houses in the countryside can be justified when required for staff to live at their place of work. This provision is not restricted to traditional rural industries such as agriculture, but the LP is clear that a countryside location must be necessary for the enterprise in question. The appellant's business started on a farm, has a largely rural clientele and employs local people. However, those facts in my view do not prove that the company could *only* be based in the countryside. To my knowledge, electro-mechanical equipment design is not an intrinsically rural trade. The appellant's clients are dispersed, so he would need to travel to and between them wherever he has his base.
15. In addition, Annex A of PPS7 is clear that any requirement for staff accommodation in the countryside must arise from the functional needs of the enterprise. I understand that the appellant works overnight to supervise equipment testing or when a security presence is required. However, it has not been shown in my view how 24 hour working of that nature would create a need for a dwelling. I consider it unlikely that other electromechanical businesses provide ancillary housing. I find no functional need for a dwelling on this site.
16. PPS7 and LP Policy H7 also suggest that new dwellings to support rural businesses should only be allowed where there is no alternative dwelling available nearby. In this case, Hillcrest is already linked to the land upon which the workshops are sited. From this, I conclude that the proposed development would cause unacceptable harm to the character and appearance of the countryside and could not be justified as supporting a rural-based activity. It would conflict with LP Policies OC1 and H7, LP Paragraph 7.64 and PPS7.

Highway Safety

17. The A515 has a speed limit of 60mph. I saw that the road is generally busy and traffic in this area includes heavy good vehicles travelling to and from nearby quarries. There is an existing field access to the site, which is used on occasion by agricultural vehicles. The shared access to the workshops and Hillcrest also leads to the site; this is used regularly.

18. Means of access is a reserved matter, and the proposed dwelling could utilise the field or Hillcrest access. I heard that the appellant has no preference other than that which would be safest. However, the Highways Authority has calculated that sightlines from both accesses onto the A515 are seriously deficient in both directions. They extend for 120m at best, although Government guidance in *Places, Streets and Movements* (PSM) recommends that visibility splays onto 60mph roads should be approximately 215m in each direction.
19. The impediment to visibility is the road itself; it dips to the north of the site and rises to a crest to the south. Thus, the splays could not be improved by the appellant. From the field access, I saw that visibility to the north extends down and up the dip, save for a blind spot. Even if this problem could be discounted or tackled, however, the splay to the south of this access extends to approximately 70m, significantly below that required. I realise that there is no recent history of serious accident in the area. Nevertheless, I am persuaded that both appeal accesses have dangerously limited visibility splays. Drivers can exit the site when approaching drivers, unaware of local conditions, are not within stopping distance.
20. From this, it is necessary to assess the impact of the proposed dwelling. I would expect an average residential property to generate several vehicular trips per day. I have found that future occupiers of the proposed dwelling might not need to drive to work, but would in this rural area be liable to use a car for trips to shops and services. I consider that the proposed development would materially intensify the use of an existing substandard access and thus cause an increased risk of driver accident. It would cause an unacceptable loss of highway safety, in conflict with Policy TR5 and PSM.
21. In reaching this conclusion I have noted that there are other unsafe accesses in the area, but that would not be good reason for me to endanger highway users further.

Appellant's Circumstances, in relation to:

Character & Appearance

22. The appellant has been registered blind for some years. At the time of the application, he lived in Buxton and relied on the bus, taxis or lifts to get to work. However, he considers it impractical to depend on third parties for travel because his business involves 24 hour working. His father used to handle overnight work, and his death in 2004 led to this proposal. The proposed dwelling would allow the appellant to better manage his business and to live independently in a structure designed around his disability.
23. I accept that the appellant's disability will affect the running of the business. The company is his and he has diversified into lines he can manage with a visual impairment. I am not persuaded, however, that the appellant's situation so alters the nature of his work as to create a need for full-time on-site management. Indeed, it seems to me that the appellant works overnight on a regular, but not continuous basis. He has placed a caravan behind the workshops for use when he works late, and I heard that this vehicle had not often been used.
24. At such times when the appellant has to work at night, it has not been explained to me why using a local taxi firm for travel would pose an unacceptable constraint. I also consider that, although equipment testing might require the appellant's presence, there could be other ways for him to handle site security. He has concerns about the reliability of security equipment, but presented little evidence that this option had been fully investigated. In my opinion, the appellant's business needs would neither be sufficient to justify the proposed dwelling nor outweigh the harm it would cause to the character of the countryside.

25. Since the appeal was lodged, the appellant has moved in with his mother at Hillcrest, but this is seen as an unsustainable arrangement, partly because the house is unsuitable for the appellant in terms of his disability. In my view, few people live in purpose-built homes. I am not convinced that the appellant could not adapt an existing dwelling instead of developing a new one. The appellant and his mother both want independence, but that situation could apply to any family whose house is connected to a business. It would not be a good reason to allow a new dwelling in the countryside, and what would be in effect a second dwelling on the holding.
26. If he does need an alternative residence, house prices and business costs would make it more difficult for the appellant to buy an existing property than develop the site. I have seen little evidence, however, that it would be impossible. The appellant wishes to remain near enough to Hillcrest to care for his mother, who has health problems. I saw a property for sale in Sterndale Moor, albeit with structural defects, and other settlements within a few miles of the site. I am not persuaded that the appellant would be unable to find an existing conveniently located and available dwelling.
27. The proposed dwelling would be permanent and liable to remain after the appellant's circumstances cease to apply. The appellant has sought to justify this by suggesting to a planning condition tying the dwelling to his business. However, *Circular 11/95: the Use of Conditions in Planning Permission* states that consent to a condition would not be enough to make it reasonable. Even if the appellant needs to live by the workshops, I am not convinced that future owners of his business would require a dwelling on the site. I also consider that future owners might not want to live here, given the small size and specialist design of the proposed earth dwelling.
28. Thus, the suggested condition could make it difficult for the appellant to sell the business in the future, and he would then be obliged to remain in the dwelling simply because the condition had outlived its usefulness. Alternatively, since the dwelling would be designed to meet the appellant's needs, he might wish to remain there after retiring, and the condition would prevent him from selling the business as a going concern. PPS7 suggests that imposing occupancy conditions can lead to buildings being kept vacant and in this case that could be either the dwelling or workshops. In my view, the suggested condition would impose an unreasonable burden on the appellant.
29. The appellant comes from Sterndale Moor and PPS7 recognises that local people can face difficulties in finding homes in rural areas. I note the Parish Council's point that the Council is seeking to bring people back to their villages. Nevertheless, I have seen no evidence of a shortage of homes in this particular area. There would also be nothing to keep the proposed dwelling available for local people in posterity; it could be sold on the open market and would not be affordable in the sense required by LP Paragraph 7.64. It was discussed at the Hearing whether a condition could be imposed restricting occupancy to people working within a certain area, but the size of such an area could not be agreed and the condition would again affect the appellant's ability to dispose of his assets.
30. It was finally discussed at the Hearing whether a personal permission could be granted, with a condition to ensure that the proposed dwelling would be solely for the appellant's benefit. Circular 11/95 indicates that such conditions can scarcely ever be justified in relation to permanent buildings. In my view, and as a result of excavations, the proposed dwelling would change the status of the appeal site from greenfield to previously developed land. It would have a lasting impact on the rural landscape. Having found no clear need for the

appellant to live on this site, a personal permission to my mind would not make the proposed development acceptable.

31. In conclusion, I heard that the appellant has made remarkable efforts to keep his business going since losing his sight. I was impressed by his determination and I sympathise with his desire to live in his village of birth, as well as close to work and in an adapted home. Nevertheless, for the reasons given above, I consider that his personal circumstances would not outweigh the harm caused by the proposed development in relation to the character and appearance of the countryside.

Highway Safety

32. The appellant does not drive and would not commute to work. Thus, the proposed dwelling would generate fewer vehicular trips than would normally be expected. For the appellant to use shops and services, however, he might still need to take a taxi or a lift. He would be likely to receive visitors, service providers and deliverers at his home. Since the proposed dwelling would be permanent, future occupiers would be liable to drive, whether or not an occupancy condition was imposed. I conclude that the appellant's personal circumstances would not overcome the long-term danger or harm caused by the proposed development in relation to highway safety.

Other Matters

33. It was suggested at the Hearing that dismissing the appeal would be a disproportionate response to the harm caused by the proposed development, and breach the appellant's rights under Article 8 of the European Convention on Human Rights. Article 8 states that everyone has a right to respect for his family life and home.
34. I have seen no evidence that the appellant would be made homeless by my dismissing this appeal. The main consequences for him in my view would either be to find a new place to live, at cost and away from his business, or to remain at Hillcrest. In either event, he might live in a dwelling requiring adaptation. Such situations would be difficult for the appellant and I regret this. However, I am not persuaded that he would suffer such hardship, in any sense, to the extent that his rights to a family life or home would be unacceptably breached. Balanced against the protection of the countryside and highway safety, two well-established objectives of national and local planning policy, I conclude that dismissing the appeal would not be a disproportionate action.
35. The appellant's statement described another dwelling approved on the basis of personal circumstances, but this matter was not pursued at the Hearing.

Conclusion

36. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

37. I dismiss the appeal.



INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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FOR THE APPELLANT:

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INTERESTED PERSONS:

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Kathleen Vaines

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Hillcrest, Sterndale Moor, Nr Buxton SK17 9QA

DOCUMENTS

- Document 1 List of persons present at the hearing
- Document 2 The Council's letter of notification of the hearing
- Document 3 Extracts from the High Peak Local Plan (Adopted 2005): Policies OC1, H5 & H7, TR5, GC4 & BC1 and the Proposals Map of Sterndale Moor.

PLANS

- Plan 01A Floor plan & east elevation as proposed – submitted for illustrative purposes
- Plan 02A Site plan & section – submitted for illustrative purposes
- Plan 03A Section A-A & south west elevation – submitted for illustrative purposes